

(d) When a peer review group meets regularly it is assumed that a relationship among individual reviewers in the group exists and that the group as a whole may not be objective about evaluating the work of one of its members. In such a case, a member's application or proposal shall be reviewed by another qualified review group to ensure that a competent and objective review is obtained.

(e) When a member of a peer review group participates in or is present during the concept review of a contract proposal that occurs after release of the solicitation, as described under § 52h.10(b), but before receipt of proposals, the member is not considered to have a real conflict of interest as described in paragraph (b) of this section, but is subject to paragraph (c) of this section concerning appearance of conflict of interest if the member is planning to respond to the solicitation. When the concept review occurs after receipt of proposals, paragraph (b) applies.

(f) No member of a peer review group may participate in any review of a specific grant application or contract project for which the member has had or is expected to have any other responsibility or involvement (whether pre-award or post-award) as an officer or employee of the United States.

(g) The Director may periodically issue guidance to the government officials responsible for managing reviews and reviewers on what interests would constitute a real conflict of interest or an appearance of a conflict of interest.

§ 52h.6 Availability of information.

(a) Transcripts, minutes, and other documents made available to or prepared for or by a peer review group will be available for public inspection and copying to the extent provided by the Freedom of Information Act, as amended (5 U.S.C. 552), the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), the Privacy Act of 1974, as amended (5 U.S.C. 552a), and implementing DHHS regulations (45 CFR parts 5, 5b).

(b) Meetings of peer review groups reviewing grant applications or contract proposals are closed to the public in accordance with sections 552b(c)(4) and

552b(c)(6) of the Government in the Sunshine Act, as amended (5 U.S.C. 552b(c)(4) and 552b(c)(6)) and section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2). Documents made available to, or prepared for or by peer review groups that contain trade secrets or commercial or financial information obtained from a person that is privileged or confidential, and personal information concerning individuals associated with applications or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, are exempt from disclosure in accordance with the Freedom of Information Act, as amended (5 U.S.C. 552(b)(4) and 552(b)(6)).

(c) Meetings of peer review groups reviewing contract project concepts are open to the public in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2) and the Government in the Sunshine Act, as amended (5 U.S.C. 552b).

§ 52h.7 What matters must be reviewed for grants?

(a) Except as otherwise provided by law, no awarding official shall award a grant based upon an application covered by this part unless the application has been reviewed by a peer review group in accordance with the provisions of this part and the group has made recommendations concerning the scientific merit of that application. In addition, where under applicable law an awarding official is required to secure the approval or advice of a national council or board concerning an application, the application may not be considered by the council or board unless it has been reviewed by the appropriate peer review group, in accordance with the provisions of this part, and the group has made recommendations concerning the scientific merit of the application, except where the council or board is the peer review group.

(b) Except to the extent otherwise provided by law, recommendations by peer review groups are advisory only and not binding on the awarding official or the national advisory council or board.